HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 365 of 2006

1. Shivram and 7 others
   All R/o Gram Loher tunnuwala Raipur
   Dehradun .....Applicant

Versus

1. State of Uttaranchal
2. Ugaram S/o Late Shri Raoda Ram
   R/o Gram Loher Tunnuwala Raipur
   Dehradun ...Respondents

Sri Tanuj Semwal, learned counsel for the applicants.
Shri Amit Bhatt, learned A.G.A. for the State.

Hon'ble J.C.S. Rawat, J.

The petition u/s 482 Cr.P.C. has been filed to quash the proceedings u/s 147, 452, 323 I.P.C. in Criminal Case No. 1458 of 2005 pending before the court of learned Judicial Magistrate C.B.I. Dehradun and to set aside the summoning order u/s 147, 452, 323 I.P.C. dated 28.02.2006.

Brief facts for the disposal of this petition are that the complainant-Ugaram lodged a complaint on 19.10.2005 before the learned Judicial Magistrate (C.B.I.) Dehradun alleging therein that on 11.09.2005 at 4:00 pm. The accused persons Smt. Somwati and Gabbu had beaten his grandson while he was playing on the road outside the house. When the complainant tried to save his grandson, the other accused-applicants started fighting and quarreling with him. When the complainant refused to fight, the accused-applicants entered into his house and started breaking his house and beaten his both daughter-in-law and his grand daughter. The complainant also alleged that the accused-applicants also beaten them with lathi and thrown stone on his family members. Thereafter, the learned Magistrate issued summons against the accused-applicants on 28.02.2006 u/s 147, 452 and 323 I.P.C.

Feeling aggrieved by the said order, the present petition has been preferred.

Heard learned counsel for the parties and perused the record.

It was contended by the learned counsel for the applicants that an F.I.R. was lodged by Smt. Somti Devi one of the present applicants against the respondent No. 2 and three others u/s 323, 325, 336, 504, 506 I.P.C. alleging therein that the respondent No. 2 and others assaulted the applicant-Somwati and his son and threatened for the dire consequence. It was also alleged in the F.I.R. that the respondent No. 2 and others pelted stone and fractured the leg of Smt. Somti Devi. It was pointed out by the learned counsel for the applicants that the matter is still under investigation. It was further contended that the present complaint filed by the respondent No. 2 is a counter blast of the F.I.R. filed by Smt. Somti Devi-applicant. Learned A.G.A. refuted the contention. Perusal of the record reveals that the medical examination of Smt. Maya, Gita and the complainant-respondent No. 2 was conducted in the Doon Hospital and the same was submitted to the police. The Injuries are also on respondent No. 2 and other persons. The incident, presence of the parties, time and date of the incident I admitted to both the parties. Under these circumstances, it cannot be said that the complainant is a counter blast. The complainant prima-facie disclosed offence. It is also supported by the evidence recorded u/s s200 and 2002 Cr.P.C. I do not find any ground for interference in this matter.

In view of the above, the petition devoids of merit is liable to be dismissed and the same is accordingly dismissed.

(J.C.S. Rawat, J.)

6th June, 2006
Shiv